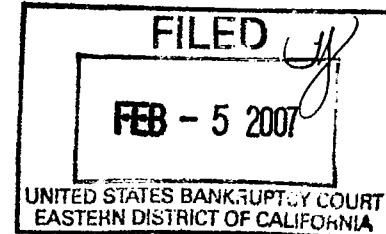


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5 Attorneys for Defendant
 6 ROBERT K. FUJITA

8 UNITED STATES BANKRUPTCY COURT
 9 EASTERN DISTRICT OF CALIFORNIA

10 [Sacramento Division]

11 In re:
 12 ROBERT FUJITA,
 13 Debtor.

Case No. 05-40060-C-7
 Chapter 7

14 ARLEEN OKIMOTO, FUJI'S
 15 ENTERPRISES, INC.,

Adv. No. 06-02156-C

16 Plaintiff,

AMENDED FINDINGS OF FACT
 AND CONCLUSIONS OF LAW

17 v.
 18 ROBERT FUJITA,
 19 Defendant.

Trial Date: December 5, 2006
 Time: 10:00 a.m.
 Dept: 32
 Judge: Hon. David E. Russell

20
 21 Trial of this matter was held on December 5, 2006. The Honorable David E. Russell
 22 presided. Robert Fong of CoBen & Associates appeared on behalf of plaintiff, Arleen
 23 Okimoto. David Meegan of Meegan, Hanschu & Kassenbrock appeared on behalf of the
 24 defendant, Robert Fujita.

25 After consideration of all the evidence and arguments, this Court makes the
 26 following findings of fact:

27
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 EASTERN DISTRICT OF CALIFORNIA
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INGS OF FACT AND CONCLUSIONS OF LAW

Meegan, Hanschu & Kassen

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1 1. At the time Fujita filed his Chapter 7 Case on October 14, 2005 ("Fujita
2 Bankruptcy Case"), plaintiff Arleen Okimoto ("Okimoto") was not owed any money by
3 defendant, Robert Fujita ("Fujita" or "defendant") arising from the notes constituting the
4 subject matter of this litigation.

5 2. Okimoto was not properly authorized to sue Fujita on behalf of Fuji
6 Enterprises, Inc. ("Corporation").

7 3. All of the promissory notes executed by Fujita in favor of the Corporation
8 constituting the subject matter of this litigation ("Promissory Notes") were properly
9 authorized by the Corporation and its representatives. *ER*

10 4. The Promissory Notes were more than repaid by Fujita through a combination
11 of payroll deductions, cash infusions to the Corporation, and Fujita's performance of
12 services for the Corporation without receiving other compensation.

13 5. Fujita committed no fraud in obtaining the loans constituting ~~repay~~ the
14 subject matter of this action from the Corporation. *DR*

15 6. Fujita did not borrow money from the Corporation with no intent to repay the
16 money.

17 7. Plaintiff Okimoto is not personally owed any money on account of the
18 Promissory Notes.

19 8. Fujita properly preserved the records of the Corporation.

20 9. There is no evidence that Fujita failed to preserve his own personal records.

21 10. If Fujita concealed, destroyed, or failed to preserve recorded information of
22 the Corporation, including books, documents, records and paper, from which Fujita's
23 financial condition or business transaction might be ascertained, such conduct was justified
24 under all the circumstances of the case.

25 11. Plaintiffs have not proven the Fujita's stole, misappropriated, or embezzled
26 or otherwise improperly took, any money or other property from the Corporation.

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AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

1 12. With the exception of one, all the Promissory Notes were due in full on or
2 before the end of 1999. One \$10,000 promissory note was due in full June 1, 2001.

3 13. There is no evidence that the due dates of the Promissory Note were
4 extended. In light of the above, this Court reaches the following conclusions of law;

5 14. Okimoto lacked the capacity to recover on behalf of the Corporation the
6 amounts due on account of the Promissory Notes.

7 | 15. The Promissory Notes have been paid.

8 16. Any recovery on account of the subject Promissory Notes is barred by the
9 applicable statute of limitations.

10 17. Okimoto has no claim relating to the subject notes upon which to base action
11 under 11 U.S.C. Sections 523 or 727 and, therefore, should not have brought this action,
12 individually.

13. 18. Even if the action had been properly brought by the Corporation and Okimoto,
14. the evidence submitted supports the following additional conclusions of law;

15 (a) There is no basis for denial of Fujita's discharge pursuant to 11 U.S.C.
16 Section 727 (a)(3), or any other subsection of 11 U.S.C. Section 727.

17 (b) There is no basis for entering a nondischargeable judgment against
18 Fujita pursuant to 11 U.S.C. Section 523(a)(2).

19 (c) There is no basis for entering a nondischargeable judgment against
20 Fultita pursuant to 11 U.S.C. Section 523(a)(4).

21 (d) There is no basis for entering a nondischargeable judgment against
22 Fulta pursuant to 11 U.S.C. Section 523 (att6).

Dated: 02/05/07

HONORABLE DAVID E. RUSSELL,
JUDGE OF THE UNITED STATES BANKRUPTCY COURT

1 APPROVED AS TO FORM:

2 Dated: February 1, 2007

MEEGAN, HANSCHU & KASSENBROCK

3
4 By:
5


DAVID M. MEEGAN
Attorney for Defendant
ROBERT FUJITA

6
7 Dated: February 1, 2007

SCOTT A. COBEN & ASSOCIATES

8
9 By:
10


ROBERT W. FONG
Attorney for Plaintiffs
ARLEEN OKIMOTO and
FUJI ENTERPRISES, INC.

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AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW